GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Public Services – Commercial Taxes Department - Data Entry Operator – Orders dt.20.03.2017 of Hon'ble High Court in WP.No.3690/2017 filed by Sri J.Murali, Data Entry Operator, O/o. DC(CT), Nellore Division - Absorption into Government Service on regular basis– Rejected - Orders – issued.

REVENUE (CT.I) DEPARTMENT

G.O.RT.No. 1246 Dated: 07-09-2018.
Read the following:-

1. Orders dt. 16-12-2016 of Hon'ble APAT in O.A.No.1410/2013 filed by Sri J.Murali, Data Entry Operator, O/o. DC(CT), Nellore Division.
2. Orders dt.20.03.2017 of Hon'ble High Court in W.P.No.3690/2017.
3. From the Chief Commissioner of State Tax, A.P., Vijayawada, Ref.No.C3/100/2017, dt.14.12.2017.

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O R D E R:

Sri J.Murali, Contingent Data Entry Operator, O/o. DC(CT), Nellore Division filed a representation before the Commissioner of Commercial Taxes requesting for absorption and regularisation of his services in Commercial Taxes Department. On rejection of the request by the Commissioner of Commercial Taxes, he filed O.A.No.12567/2009 before the Hon'ble Tribunal.

2. The Hon'ble Tribunal in its orders dated.16.06.2012 in OA.No.12567/2009 allowed the application and directed the Commissioner of Commercial Taxes to reconsider the entire issue in view of G.O.Ms.No.10, dt.04.02.1991 and pass orders on the representation of the applicant. Accordingly, the Commissioner of Commercial Taxes examined the issue and passed orders rejecting again the request of Sri J.Murali for regularisation of his services.

3. Aggrieved by the orders of the Commissioner of Commercial Taxes, Sri J.Murali filed another O.A.No.1410/2013 before the Hon'ble Tribunal on which orders were passed by the Hon'ble Tribunal on 16-12-2016 dismissing the OA. The Hon'ble Tribunal observed that the Commissioner of Commercial Taxes rightly relied on Section 17 of Act No.2 of 1994 where under no person who is a daily wage employee or appointed on a temporary basis have a right to claim regularisation of services on any ground what so ever.

4. Aggrieved by the above orders of the Hon'ble APAT in OA.No.1410/2013, dated 16.12.2016 Sri J.Murali has filed WP.No.3690/2017 before the Hon'ble High Court of A.P. The Hon'ble High Court while allowing the Writ Petition in its order dated 20.3.2017 observed as follows:

> "when the Government promulgated G.O.Ms.No.10, dt.04.02.1991 has a policy for regularising the computer personnel appointed through the Andhra Pradesh Technology Services Limited, the question of defeating said policy by refusing to regularise the services of the petitioner who claims to be covered thereby by citing State of karnataka Vs Uma Devi does not arise".

5. The Hon'ble High Court directed the Commissioner of Commercial Taxes for consideration of whole issue afresh in terms of the order passed in OA.No.12567/2009, dated 16.6.2012. The Hon'ble High Court set aside the order of Tribunal in OA.No.1410/2013, dated 16.12.2016.

6. The Commissioner of Commercial Taxes have after carefully examining the matter issued orders rejecting the request of Sri J.Murali, contingent DEO, for regularisation of services or absorption to equivalent post of Jr. Assistant vide his proceedings dt.09.05.2017.

(P.T.O.)

7. Aggrieved with the proceedings, the Petitioner has filed Contempt Petition CC NO.1124/2017 in WP NO.3690/2017. After receipt of the contempt notice, the CCST vide his letter 3rd read above, has requested the Govt. to permit him to regularize the services of Sri J.Murali, DEO., under G.O.Ms.No.10, dt.04.02.1991 and also permission to modify his earlier rejection orders dt.09.05.2017.

8. Government have examined the matter and observe as follows.

"The Andhra Pradesh State Legislature enacted the Andhra Pradesh (Regulation of Appointments to Public Services and Rationalisation of Staff Pattern and Pay Structure) Act, 1994 (Act 2 of 1994) in order to regulate appointments and prohibit irregular appointments in Offices and Establishments under the control of the State Government, Local Authorities, Corporations owned and controlled by the State Government and other bodies established under a law made by the Legislature of the State to rationalise the Staff Pattern and Pay Structure of Employees therein and for matters connected therewith or incidental thereto.

Further, Government in consonance with the Act No.2 of 1994 issued orders vide G.O.Ms.No.212, F&P(FW.PC.III) Department, dated.22.4.1994 and G.O.Ms.No.112, Fin. & Plg. Dept., dated.23-07-1997 where under Government have decided to regularize the services of only those persons who worked continuously for a minimum period of 5/10 years and are continuing on 25.11.1993, subject to fulfilment of certain conditions specified therein. Act No.2 of 1994 and G.O.Ms.No.212, Finance, dated 22.4.1994 and G.O.Ms.No.112, Finance, dated 23.7.1997 deal with regularization of services. There is no other method/ Policy under which a person services can be regularized or absorbed into Government service. All executive orders and instructions issued prior to Act No.2 of 1994 and G.O.Ms.No.212, Finance, dated 22.4.1994 and G.O.Ms.No.112, Finance, dated 23.7.1997, on regularisation/absorption ceased to exist.

As per the provisions of Section- 17 of Act No.2/94, the Act overrides any other law, time being in force or any judgment, decree or order of any Court, Tribunal or other authority. Consequently, G.O.Ms.No.10, Fin & Plg. Dept. dt.04.02.1991 also ceases to exist after Act.No. 2 of 1994 has come into force.

The petitioner in W.P.No.3690/2017, does not fall under purview of the aforesaid Act 2 of 1994 and G.Os., and his services can neither be regularised nor he can be absorbed/converted into an equivalent category of post in the Department".

9. Therefore, the request of Sri J.Murali, contingent Data Entry Operator, O/o. DC(CT), Nellore Division for regularisation/absorption/conversion into Government Service is hereby rejected.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

DR. D.SAMBASIVA RAO,
SPECIAL CHIEF SECRETARY TO GOVERNMENT

To
The Chief Commissioner of State Tax, A.P., Vijayawada.
Sri J.Murali, Data Entry Operatory, O/o DC(CT), Nellore Division
through the Chief Commissioner of State Tax, A.P., Vijayawada.

Copy to:
The PS to Hon'ble Minister (F,P, CT & LA).
The PS to Spl.Chief Secretary to Govt. (CT, Excise & R&S).
SF/SC.

// FORWARDED:: BY ORDER//

SECTION OFFICER.